

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JORGE RODRIGUEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CITIMORTGAGE, INC.,

Defendant.

Civil Action No.: 11-cv-4718-PGG

**NOTICE OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

For the reasons set forth in the Memorandum of Law in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") and in the Declaration of Joseph I. Marchese in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Marchese Decl."), Plaintiff respectfully requests that the Court enter an Order:

- (1) granting preliminary approval of the Settlement Agreement and Release (the "Settlement"), attached as Exhibit A to the Marchese Decl.;
- (2) conditionally certifying the following Settlement Class under Fed. R. Civ. P. 23(a) and (b)(3) for purposes of effectuating the Settlement:

All current and former members of the United States Armed Forces with Eligible Loans whose real property securing the Eligible Loan was sold by Defendant at a completed foreclosure sale from January 1, 2006 through June 30, 2012 where (i) the mortgage securing the loan on the property originated before the Servicemember's Military Service; (ii) the sale occurred during the Servicemember's period of Active Duty Military Service or within the applicable grace period, as defined and protected by the SCRA; and (iii) the sale occurred without prior court approval or a written waiver of the rights and protections provided by the SCRA, or without otherwise complying with Sections 533, 521 or any other mortgage foreclosure related provisions of the SCRA;

- (3) designating plaintiff Jorge Rodriguez as Class Representative of the Settlement Class;

(4) appointing Bursor & Fisher, P.A., Carlson Lynch LTD, and Faruqi & Faruqi, LLP as Class Counsel;

(5) approving Plaintiff's Notice of Class Action and Proposed Settlement and directing its distribution;

(6) approving Plaintiff's proposed schedule for final settlement approval;

(7) granting such other, further, or different relief as the court deems just and proper.

* * *

A Proposed Preliminary Approval Order is submitted herewith.

Dated: December 28, 2012

Respectfully submitted,

BURSOR & FISHER, P.A.

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